

SUMMARY

This proposed ordinance amends Chapter 18, Article V, of the 1984 Detroit City Code, Division 4. *Prevailing Wage and Fringe Benefit Rates Required for City Project*, by removing existing and adding new language to Section 18-5-60. titled Definitions and Section 18-5-63, titled *Requirement that a copy of prevailing wages be posted by contractor and subcontractors*. Repealing existing sections and adding new sections titled Section 18-5-64 Complaint process, Section 18-5-65, Requirement for investigation of complaint, Section 18-5-66 Termination of contract for Failure to pay; liability of contract and securities, Section 18-5-67, Conditions for tax abatement and Section 18-5-68 Penalties.

1 BY COUNCIL MEMBER SHARON MCPHAIL:

2
3 AN ORDINANCE to amend Chapter 18, Article V, of the 1984 Detroit City
4 Code, Division 4. *Prevailing Wage and Fringe Benefit Rates Required for City*
5 *Project*, by removing existing and adding new language to Section 18-5-60. titled
6 Definitions and Section 18-5-63, titled *Requirement that a copy of prevailing*
7 *wages be posted by contractor and subcontractors*. Repealing existing sections
8 and adding new sections titled Section 18-5-64 Complaint process, Section 18-5-
9 65, Requirement for investigation of complaint, Section 18-5-66 Termination of
10 contract for Failure to pay; liability of contract and securities, Section 18-5-67,
11 Conditions for tax abatement and Section 18-5-68 Penalties.

12 IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT
13 THAT:

14 **Section 1.** That Chapter 18 of the 1984 Detroit City Code, Chapter 18,
15 Article V, of the 1984 Detroit City Code, Division 4. *Prevailing Wage and Fringe*
16 *Benefit Rates Required for City Project*, by removing and adding new language
17 as follows:

18
19 Sec. 18-5-60. Definitions.

20 For the purpose of sections 18-5-60 through 18-5-66, the following words and
21 phrases shall have the meaning ascribed to them by this section:

22 (a) Agencies means any department, office, authority, commission,
23 quasi-public entity, multi member body, or other organization of city
24 government.

25 ~~(a)~~(b) Construction mechanic shall mean a skilled or unskilled mechanic,
26 laborer, worker, helper, assistant, or apprentice working on a "city
27 project", but shall not include executive, administrative, professional,

office or custodial employees.

~~(b)~~(c) City project shall mean a public works construction project that is one hundred thousand dollars (\$100,000.00) or more. Such a "city project" shall include new construction, alteration, repair, installation, painting, decorating, completion, demolition, conditioning, reconditioning, or improvement of public buildings, work, or roads authorized by a "contracting agent". For purposes of this division, "city project" includes the contracts and subcontracts entered into by the "contracting agent" and the bidder.

~~(c)~~(d) Contracting agent shall mean any designee, officer, board or commission of the city, or a city institution supported in whole or in part by city funds, authorized to enter into a contract for a "city project" or to perform a "city project" by the direct employment of labor.

(e) Designee means a public official acting on behalf of the Finance Director.

Sec. 18-5-61. Requirement for an express term regarding a minimum rate of wages.

Every contract executed between a contracting agent and a successful bidder as contractor, and entered into pursuant to advertisement and invitation to bid for the city project which requires or involves the employment of construction mechanics, except those subject to the jurisdiction of the City of Detroit civil service commission, and which is financed in whole or in part by the city, but excluding those projects covered by the Federal Davis-Bacon Act or the State Prevailing Wage Act (Act 166, P.A. 1965, MCLA 408.551 et seq.; MSA

17.256(1) et seq.) shall contain an express term that the rates of wages and fringe benefits to be paid to each class of mechanics by the bidder and all of his subcontractors shall be not less than the wage and fringe benefits rate prevailing in the city as established by the most recent survey of the Michigan Department of Labor for prevailing wage determination under Act 166, P.A. 1965 (Act 166, P.A. 1965), MCLA 408.551 et. seq., MSA 17.256(1) et seq.). Should a prevailing wage determination survey for the city be concluded during the life of a successful bidder's contract and/or his subcontracts covered by this ordinance, the rates of wages and fringe benefits that are the minimum to be paid each class of mechanic shall be appropriately adjusted according to this most recent survey. Any such adjustments that require an amendment to the contract shall be effective upon approval by the city council.

~~Sec. 18-5-62. Requirement that a schedule of rates is to be part of specifications for city projects.~~

~~A schedule of the prevailing wage and fringe benefits for all classes of construction mechanics called for in a contract shall be made a part of the specifications for the work to be performed and shall be printed in the bidding forms where work is to be done by contract.~~

Sec. 18-5-62. Public Works Contracts, Prevailing Wage Affidavit Required.

All executed public works contracts by the City of Detroit and/or its agencies as prescribed in Section 18-5-60 (b) and 18-5-60 (c) shall include a copy of the Prevailing Wage Ordinance and a copy of the current prevailing wages and fringes as prescribed in Section 18-5-61. The executed contracts shall

1 included a signed affidavit acknowledging that the prevailing wages shall be
2 paid under terms of the contract by the contractor and subcontractors
3 throughout the term of the contract.

4 ~~Sec. 18-5-63. Requirement that a copy of prevailing wages be posted by~~
5 ~~contractors and subcontractors.~~

6 ~~Every contractor and subcontractor shall keep posted in a conspicuous place~~
7 ~~on the construction site a copy of all prevailing wage and fringe rates~~
8 ~~prescribed by the contractor and shall keep accurate records showing the~~
9 ~~name and occupation of and actual wages and benefits paid to each~~
10 ~~construction mechanic employed by him in connection with said contract. This~~
11 ~~record shall be made available on demand for inspection by the contracting~~
12 ~~agent of the city.~~

13
14 Sec. 18-5-63. Requirement that a schedule of rates is to be part of
15 specifications for city projects.

16 A schedule of the prevailing wage and fringe benefits for all classes of
17 construction mechanics called for in a contract shall be made a part of the
18 specifications for the work to be performed and shall be printed in the bidding
19 forms where work is to be done by contract.

20
21 ~~Sec. 18-5-64. Termination of contract for failure to pay; liability of contractor~~
22 ~~and securities.~~

23 ~~The contracting agent, by written notice to the contractor and the sureties of~~
24 ~~the contractor known to the contracting agent, shall terminate the contractor's~~
25 ~~right to proceed with that part of the contract for which less than the prevailing~~

~~rates of wages and fringe benefits have been or will be paid and shall proceed to complete the contract by separate agreement with another contractor. The contracting agent shall withhold payment for work done until liabilities for unpaid wages and excess cost to the city or reletting the work have been met.~~

Sec. 18-5-64. Requirement that a copy of prevailing wages be posted by contractors and subcontractors.

Every contractor and subcontractor shall keep posted in a conspicuous place on the construction site a copy of all prevailing wage and fringe rates prescribed by the contractor. Each new employee shall be provided a copy of the prevailing wage and fringe rates document when he or she begins work.

In addition, the contractor must supply additional copies of the wage and fringe rates document as requested by employees. The contractor shall keep accurate records showing the name and occupation of and actual wages and benefits paid to each construction mechanic employed by him the contractor in connection with said contract. This record shall be made available immediately on demand for inspection by the contracting agent of the city.

Sec. 18-5-65. Conditions for tax abatement.

All firms, companies, and businesses seeking tax abatement from the city shall as a condition of receiving that tax abatement agree to include prevailing wage schedules and payment of prevailing wages, as defined by this ordinance, on all construction work performed on the property for which the tax abatement is granted.

~~Sec. 18-5-66. Penalties.~~

1 ~~Any person, firm or corporation or combination thereof, including officers of~~
2 ~~any contracting agent, who violates the provisions of this ordinance is guilty of~~
3 ~~a misdemeanor. In addition, any contractor found to be in violation of this~~
4 ~~division by any contracting agent shall be barred for two (2) years from bidding~~
5 ~~on any city project.~~

6
7 Sec. 18-5-66. Complaint process.

8 A person impacted by a violation of this ordinance may file a complaint with
9 the [sic] city Finance Director or his/her designee. If the complaint is not
10 resolved as to the payment of the prevailing wages to the complainant ' s [sic]
11 satisfaction within ninety days from the a complaint being filed, the
12 complainant [sic] or his or her representative may bring an action in the
13 appropriate court to enforce this ordinance. The court shall award reasonable
14 attorneys fees and costs to a person who prevails in an enforcement action.

15
16 Sec. 18-5-67. Development of Complaint Procedures; Requirement for
17 investigation of complaint.

18 The Finance Department shall create appropriate polices, procedures, and
19 documents necessary to implement the complaint procedure required by this
20 ordinance. The Finance Department shall submit these polices, procedures
21 and documents to City Council for review.

22 The Finance Director or his/her designee shall be responsible for the
23 enforcement of this complaint process. The city shall designate an individual
24 or individual(s) who shall investigate any and all complaints or violations of
25 this ordinance. A contractor under investigation shall provide the Finance

1 Director with weekly payroll records setting forth the name, address,
2 telephone number, classification, wage rate and fringe benefit package of all
3 employees who work on the contract, including the employees of contractors
4 subcontractors and agents. Such weekly payroll records must include the
5 required information for all city contracts and all other contracts on which the
6 employee worked during the week in which the employee worked on the
7 contract. These records will reflect the individual time each employee worked
8 on the project for each day of the project. Such records shall also set forth the
9 total number of hours of overtime credited to each such employee for each
10 day and week and the amount of overtime pay received for that week. The
11 records shall set forth the full weekly wages earned by each employee and the
12 actual hourly wage rate to the employee. The city shall begin the investigation
13 within 3 days of receipt of a complaint and shall provide a written
14 determination within 10 days of beginning its investigation with a copy of the
15 determination to the complainant and the City Council, as to whether or not a
16 violation has occurred.

17
18 Sec. 18-5-68 Termination of contract for failure to pay; liability of contractor
19 and [sureties](#).

20 The city or its agent, by written notice to the contractor and the sureties of the
21 contractor known to the contracting agent, shall terminate the contractor's
22 right to proceed with the contract when less than the prevailing rates of wages
23 and fringe benefits have been or will be paid and shall proceed to complete
24 the contract by separate agreement with another contractor. The city or its
25 contracting agent shall withhold payment for work done by a contractor found

1 to be in violation of paying less than Prevailing Wages until liabilities for
2 unpaid wages are paid to the effected workers under the contract. If a
3 contractor fails to pay the liabilities for unpaid wages to the effected workers
4 the City shall use the contractors withheld payments to secure a contractor to
5 complete the work.

6
7 **Sec. 18-5-69. Penalties.**

8 Any person, firm or corporation or combination thereof, including officers of
9 any contracting agent, who violates the provisions of this ordinance is guilty of
10 a misdemeanor. In addition, any contractor found to be in violation of this
11 division by any contracting agent shall be barred for two (2) years from bidding
12 on any city project. In addition, if the contractor who is found in violation of the
13 provisions of this ordinance by the Finance Director in one contract and has
14 additional contracts with the city, all contracts held by this contractor must be
15 evaluated immediately to determine their compliance with this prevailing wage
16 ordinance.

17 Any contractor or subcontractor who violates the prevailing wage requirement
18 shall pay to each employee affected the amount of the deficiency, for each
19 day of the violation. Violation of the ordinance, shall also result in a penalty
20 paid to the city in the amount of \$200.00 per a violation for each day the
21 violation has occurred. The city shall withhold payments to the employer in
22 such amounts as are necessary to effect the payments provided in this
23 paragraph.

24 **Section 2.** All ordinances, or parts of ordinances, which conflict with this
25 ordinance are repealed.

Section 3. This ordinance is declared necessary for the preservation of the public peace, health, safety, and welfare of the People of the City of Detroit.

Section 4. If any clause, phrase, section or word of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining clauses, paragraphs, phrases sections, sentences or words of this ordinance.

Section 5. This ordinance shall become effective on the thirtieth (30th) day after enactment in accordance with Section 4-115 of the 1997 Detroit City Charter.

Approved as to form only:

Ruth Carter

Corporation Counsel